

Layne Friedrich (Bar No. 195431)  
Drevet Hunt (Bar No. 240487)  
Lawyers for Clean Water, Inc.  
1004 O'Reilly Avenue  
San Francisco, California 94129  
Telephone: (415) 440-6520  
Facsimile: (415) 440-4155  
Email: layne@lawyersforcleanwater.com

Michelle Smith (Bar No. 233515)  
Humboldt Baykeeper  
422 First Street Suite G  
Eureka, CA 95501  
Telephone: (707) 268-0665  
Facsimile: (707) 268-8901  
Email: michelle@humboldtbaykeeper.org

Fredric Evenson (Bar No. 198059)  
Law Offices of Fredric Evenson  
William Verick (Bar No. 140972)  
Klamath Environmental Law Center  
424 First Street  
Eureka, CA 95501  
Telephone: (707) 268-8900  
Facsimile: (707) 268-8901  
Email: ecorights@earthlink.net

Attorneys for Plaintiffs  
HUMBOLDT BAYKEEPER, and  
ECOLOGICAL RIGHTS FOUNDATION

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

HUMBOLDT BAYKEEPER, a program of  
Ecological Rights Foundation, and ECOLOGICAL  
RIGHTS FOUNDATION, a non-profit  
corporation,

Plaintiffs,

v.

UNION PACIFIC RAILROAD COMPANY, a  
Delaware corporation, and NORTH COAST  
RAILROAD AUTHORITY, a state agency,

Defendants.

Civil Case No.: C 06-02560 JSW

**STIPULATION TO FILE FIRST  
AMENDED COMPLAINT AND  
RESCHEDULE CASE  
MANAGEMENT CONFERENCE;  
~~PROPOSED~~ ORDER**

Case Mgt. Conference: August 18, 2006  
Time: 1:30 p.m.  
Place: Courtroom 2, 17<sup>th</sup> Floor

1 Humboldt Baykeeper, a program of the Ecological Rights Foundation, and the Ecological  
2 Rights Foundation (hereinafter referred to collectively as “Humboldt Baykeeper” or “Plaintiffs”),  
3 Union Pacific Railroad Company (“Union Pacific”) and the North Coast Railroad Authority (“NCRA”)  
4 (collectively “Defendants”) hereby enter into this stipulation:

5 WHEREAS, on February 1, 2006, Humboldt Baykeeper issued a notice letter (“Notice Letter”)  
6 to Defendants regarding Plaintiffs’ intent to file suit against Defendants under the Federal Water  
7 Pollution Control Act, 33 U.S.C. § 1251 *et seq.* (“Clean Water Act” or “CWA”) and the Resource  
8 Conservation and Recovery Act, 42 U.S.C. § 6091 *et seq.* (“RCRA”);

9 WHEREAS, pursuant to the CWA and RCRA, the Notice Letter was sent to certain regulatory  
10 agencies. Among other things, RCRA requires that the chief administrator of the California Integrated  
11 Waste Management Board receive the Notice Letter 90 days before Plaintiffs may file suit for  
12 violations of RCRA. 42 U.S.C. § 6972(b)(2)(A); *see also* 40 C.F.R. § 254.2. Plaintiffs represent that  
13 the chief administrator received the Notice Letter on March 6, 2006;

14 WHEREAS, on April 12, 2006, Plaintiffs filed a Complaint with this Court regarding  
15 Defendants’ alleged violations of the Clean Water Act;

16 WHEREAS, on June 5, 2006, because more than 90 days will have passed since the  
17 administrator of the California Integrated Waste Management Board received Plaintiffs’ Notice Letter,  
18 Plaintiffs plan to file a First Amended Complaint to add the RCRA claims;

19 WHEREAS, the parties have entered into this stipulation to accommodate: (1) Plaintiffs’  
20 request to amend the Complaint; (2) Defendants’ need to have sufficient time to evaluate and respond  
21 to the First Amended Complaint; and (3) the schedules of all litigation counsel with regard to the Case  
22 Management Conference; and

23 WHEREAS, the parties agree to stipulate to Plaintiffs’ filing of its First Amended Complaint  
24 and to set a schedule for responding to the First Amended Complaint, and also stipulate to request that  
25 the Case Management Conference be postponed by approximately thirty (30) days to accommodate the  
26 proposed pleading schedule as well as counsels’ respective litigation schedules;

27 ///

28 ///

1 IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned attorneys for  
2 the parties, subject to the Court's approval, that:

3 1. Plaintiffs will file their First Amended Complaint on June 5, 2006.

4 2. Plaintiffs will also serve Defendants with their First Amended Complaint on June 5,  
5 2006, by serving counsel for Defendants, who agree to accept service of process via express mail or  
6 hand delivery.

7 3. Union Pacific and NCRA will answer or otherwise respond to the First Amended  
8 Complaint on or before June 26, 2006. If either Defendant files a motion rather than an answer in  
9 response to the First Amended Complaint, the parties shall confer to choose a mutually acceptable  
10 hearing date, open and available on the Court's calendar, for the hearing of the motion.

11 4. The Case Management Conference, currently scheduled for August 18, 2006, shall be  
12 rescheduled for September 22, 2006, or as soon thereafter as the Court's calendar permits.

13 5. Per the Court's Order Setting Initial Case Management Conference and ADR Deadlines,  
14 all other dates will be automatically reset based on the new Case Management Conference date.

15 Dated: June 1, 2006

Respectfully submitted,

16 /s/ Layne Friedrich

17 Layne Friedrich  
18 Lawyers For Clean Water, Inc.  
Attorney for Plaintiffs

19 /s/ Paul P. Spaulding, III

20 Paul P. "Skip" Spaulding, III  
21 Farella Braun + Martel LLP  
Attorney for Union Pacific

22 /s/ Christopher Neary

23 Christopher Neary  
Attorney for NCRA

24 I, Layne Friedrich, attest that the content of this document is acceptable to all persons required to  
25 sign this document.

26 Dated: June 1, 2006


/s/ Layne Friedrich

27 Layne Friedrich  
28 Lawyers For Clean Water, Inc.  
Attorney for Plaintiffs

1 Based on the foregoing, and good cause appearing therefore, the Court orders that Plaintiffs shall  
2 file and serve on all parties their First Amended Complaint on June 5, 2006. Defendants will answer or  
3 otherwise respond to the First Amended Complaint on or before June 26, 2006. The Case Management  
4 Conference shall be rescheduled for September 22, 2006, at 1:30 p.m. All other dates in the Court's  
5 Order Setting Initial Case Management Conference and ADR Deadlines are postponed accordingly.

6 IT IS SO ORDERED:  
7

8  
9 Date: June 2, 2006

  
The Honorable Judge Jeffrey S. White  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA